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C O N F I D E N T I A L CANBERRA 001080

NOFORN

DEPARTMENT FOR EAP/ANP FRELICK AND FOR L/OES ROACH

E.O. 12958: DECL: 10/27/2018

TAGS:

PHSA, EWWT, PREL, AS
SUBJECT: AUSTRALIA ON INDONESIAN STRAIT OF MALACCA PILOTAGE
SCHEME

REF: A. STATE 112590
B. CANBERRA 1073

Classified By: Economic Counselor Edgard Kagan for Reasons 1.4 (b/d).

Summary

¶1. (C/NF) Australia has not been approached recently by Indonesia about either Australia's Torres Strait Mandatory Pilotage Regime or Indonesia's reported proposal to introduce a mandatory pilotage regime in the Strait of Malacca. Australia strongly opposes the Indonesian proposal, which it believes inconsistent with international law and significantly different from the Torres Strait regime. The Australians believe Singapore may be softening its position on the Torres Strait in order to secure Canberra's support for a full court press against the Indonesians. Australia would probably be prepared to give that support if Singapore backs off from threats to take international legal action against the Torres Strait regime. A Singapore Embassy told us October 22 that Singapore "understands the basic outlines" of what the United States and Australia are working out to resolve the Torres Strait issue and "we have no objection provided the final outcome is consistent with international law." End Summary.

¶2. (C/NF) During a meeting to discuss other issues (ref b), DFAT International Legal Department Assistant Secretary Adam McCarthy told Econcouns October 23 that Indonesian officials approached him for a briefing on the Torres Strait "about two years ago," but have not raised the matter since. The Indonesians have not consulted with Australian about their reported efforts to develop a mandatory pilotage regime for the Strait of Malacca, according to McCarthy, who said that Australia strongly opposes such an effort. He said that he had stressed to the Indonesians that Australia's Torres Strait regime was based on securing consent of the littoral states (i.e. Papua New Guinea) and adoption by the International Maritime Organization (IMO). Australia believes that the Indonesian proposal meets neither of these conditions, according to McCarthy. He said that Australia will make this point directly to the Indonesians. The Australians would be prepared to join in with others for a multilateral effort, but would be constrained as long as there is the possibility that Singapore will take international legal action against the Torres Strait mandatory pilotage regime.

¶3. (C/NF) Noting that Singapore's High Commissioner had met with DFAT Deputy Secretary Gillian Bird to discuss the Torres Strait issue on October 20, McCarthy said that Singapore appears to be stepping back slightly from the possibility of international legal action. McCarthy said that the Singaporean was very interested in reports of ongoing discussions between the United States and Australia about the Torres Strait, while highlighting Singapore's desire that the issue not disrupt relations with Canberra. McCarthy's assessment is that Singapore believes that the United States and Australia will find a way to resolve the issue and wants to maintain the flexibility to accept the outcome. He believes Singapore would like to secure Australian support. He believes Singapore would like to secure Australian support for a broader effort to convince Indonesia to back away from its Strait of Malacca proposal. Ever the defender of Australia's Torres Strait regime, McCarthy said that Singapore has probably come to the conclusion that it has a much better chance of prevailing in an international legal challenge against the Indonesian Strait of Malacca regime than against Australia. Acknowledging our view that the Torres Strait regime is incompatible with international law, McCarthy said that Australia disagrees while recognizing the dangers of a legal challenge. However, he is very confident that the case against Indonesia is "rock solid."

¶4. (C/NF) Singapore High Commission officer Rozana Abdul Majid called Econcouns October 22 to ask about U.S.-Australia discussions on the Torres Strait. After having her questions rebuffed, she said that Singapore understands that the United States approach is based on U.S. definition of "port state control." Abdul Majid said that Singapore "understands the basic outlines" of what the United States and Australia are working out to resolve the Torres Strait issue and "we have no objection provided the final outcome is consistent with international law."

Clune